

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DEBBIE SMITH	:	CIVIL ACTION
	:	
v.	:	
	:	
	:	
GOSCHENHOPPEN-HOME INSURANCE	:	
GROUP and OLD GUARD INSURANCE	:	
COMPANY	:	NO. 97-2034

MEMORANDUM AND ORDER

Fullam, Sr. J. October , 1998

According to her complaint, plaintiff's property was damaged by a fire which occurred on November 27, 1995, at her then-residence in Plymouth Meeting, Pennsylvania. The defendant had issued a homeowner's policy covering the loss.

The defendant settled plaintiff's claim for the fire loss. But, according to plaintiff, she suffered a further loss after the fire, when other personal property still in the damaged house was stolen, some time on before February 3, 1996. Plaintiff's claim for this additional loss has not been paid, and plaintiff therefore brought this action to recover for the theft loss, and also for defendant's alleged bad faith in handling the claim.

As mentioned above, plaintiff resided in Pennsylvania when the losses occurred. The defendant is a Pennsylvania insurance company located in Quakertown, Pennsylvania. But after

the claim for the theft loss was presented, plaintiff and her husband moved to Ohio. Plaintiff's Pennsylvania attorney initially filed this action in a federal district court in Ohio. He then obtained a "snap" judgment by default, which was later set aside on defendant's motion. Defendant countered with a motion to dismiss for lack of personal jurisdiction, and also on the ground that plaintiff's lawyer was not admitted to practice before that court. In March, 1997, the case was transferred to this court.

After the case arrived here, the defendant filed an answer which can fairly be described as consisting largely of hair-splitting and obfuscation (for example, professing inability "after reasonable investigation" to admit or deny what its admitted agent did and said at various times). The answer also includes no less than 13 "affirmative defenses", most of which are patently frivolous. After careful study of this pleading, one is left totally in the dark as to what defendant's factual and legal position with respect to this claim may turn out to be.

In November 1997, plaintiff's then-attorney was granted leave to withdraw; and plaintiff was granted additional time in which to obtain substitute counsel. In January, 1998, at plaintiff's request, she was formally allowed to proceed pro se.

Since that date, the defendant has filed a Motion to Compel Discovery, a Motion to Quash or Limit a Subpoena served by

plaintiff on defendant's agent, and a Motion for Severance of the bad-faith claim from the loss claim, coupled with a Motion for Protective Order to limit plaintiff's discovery. Plaintiff has countered with her own Motion to Compel Discovery.

The defendant's Motion to Compel Discovery will be denied without prejudice, for the most part. I have not been made aware of the interrogatories propounded, the documents requested, or plaintiff's responses to date, and therefore cannot assess the reasonableness and/or necessity of defendant's discovery requests. The only point which does emerge with sufficient clarity is a request for plaintiff to identify any expert witnesses she intends to call at trial; that request will be granted.

Although plaintiff's discovery requests are also not in the record, enough has been disclosed to make it clear that many, if not all, of her requests are patently over-broad and irrelevant to the issues in this case.

My review of the record to date leaves me with the impression that both sides know all they need to know about this case, and that each side is simply trying to annoy the other side. If the parties can dispel this impression, within ten days, they are free to do so.

An Order follows.

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ORDER

AND NOW, this day of October, 1998, IT IS ORDERED:

1. Within ten days, the defendant shall file with this Court, and serve upon plaintiff, a supplemental answer to plaintiff's complaint which contains a concise and understandable statement of the defenses defendant intends to rely upon at trial.

2. Within ten days, plaintiff shall file with this Court a statement setting forth the actual amount of the property loss she claims to have suffered from the alleged theft of her property.

3. Plaintiff is advised that she may be unable to establish her claim at trial without testimony from an appraiser

or similar expert, as to the value of the property allegedly stolen. If plaintiff intends to present such expert testimony, plaintiff must, within ten days, inform the defendant of the name and address of any such expert witness and, within 30 days thereafter, provide the defendant with a written report of such expert.

4. Defendant's Motion for Severance is DENIED, without prejudice to renewal at trial if appropriate.

5. Defendant's Motion for a Protective Order is DENIED. Defendant shall provide all non-privileged information which is relevant, and shall list and categorize any documents withheld on the ground of privilege.

6. Except as set forth in this Order, all pending motions are DENIED.

John P. Fullam, Sr. J.